REMARKS

The Office Action and the cited and applied references have been carefully reviewed. No claim is allowed. Claims 1-8 and 10-14 presently appear in this application and define patentable subject matter warranting their allowance. Reconsideration and allowance are hereby respectfully solicited.

Claims 1-8 and 10-14 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Halazy et al. WO01/47920 in view of Bennett et al., *Current Opinon in Pharmacology* 3:420-425 (2003) (or Kaneto-I, Kaneto_II, Kaneto-III or Hotamisligil) and Gatlin et al., US 6,559,188. This rejection is respectfully traversed.

First, it should be pointed out that the secondary Kaneto-I, Kaneto-II, Kaneto-III and Hotamisligil references cited and applied by the examiner were all published in 2005, including the Kaneto et al., *Rev. Diabet. Stud.* 1(4):165-174 (2004), which was published online on February 10, 2005 (see the attached printout showing that the Vol. 1, No. 4 Winter 2004 issue was published online in 2005). Since the present application is a 371 national stage application of PCT/EP04/52090 filed September 8, 2004, this 2004 filing date antedates the cited and applied references published in 2005.

Accordingly, the Kaneto-I, Kaneto-II, Kaneto-III and the Hotamisligil references are not available as prior art.

Based on the teachings of Bennett, the examiner asserts that because JNK inhibitors are known to treat diabetes, it would be obvious to one of ordinary skill in the art at the time the present invention was made to use the compounds of Halazy, which are selective JNK2 and JNK3 inhibitors, to treat diabetes. The secondary Gaitlin reference is being applied by the examiner only for teaching the use of combinations of various anti-diabetic agents including PPAR gamma agonists recited in the currently amended claims as a supplementary drug.

Applicants disagree with the examiner's position because Bennett only teaches that a specific compound CC-105 was effective to treat diabetes in mice. Bennett does not demonstrate that CC-105 was active via the JNK2 or JNK3 pathway. On the contrary, Bennett teaches on page 421 that the body weight, blood glucose and plasma insulin levels are genetically dependent on JNK1, and that JNK2-/-ob/ob mice do not show changes in insulin receptor signaling. Thus, this is clearly a teaching away from using JNK2 or JNK3 inhibitors of the present invention. Furthermore, CC-105, also known as SP-600125 as evidenced by the attached from Thomson Pharma enclosure 1, is also active on several other kinases as

evidenced by the attached abstract (Current Enzyme Inhibition, Volume 6, Number 1, February 2010, pp. 26-33(8), enclosure 2). Therefore, Bennett does not provide any indication or suggestion that the compounds of Halazy would be suitable to treat diabetes.

As Gaitlin also does not add any teaching or motivation to use the JNK2 and JNK3 inhibitor compounds of Halazy to treat diabetes, the combination of Halazy, Bennett and Gaitlin, as applied by the examiner, cannot lead one of ordinary skill in the art to arrive at the presently claimed invention.

Reconsideration and withdrawal of this rejection are therefore respectfully requested.

Claims 1-8 and 10-14 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Gaillard et al., WO03/091249 in view of Bennett (or Kaneto-I, Kaneto-II, Kaneto-III or Hotamisligil) and Gatlin or Fine, US 6,376,549.

The Kaneto-I, Kaneto-II, Kaneto-III and Hotamisligil references are not prior art references as discussed above. With regard to the primary Gaillard reference (in which the corresponding US Patent is 7,314,878), the examiner has indicated that this reference constitutes prior art only under 35 U.S.C. §102(e). Pursuant to MPEP 706.02(l)(2)(II), the following statement below in a clear and conspicuous manner is

sufficient to disqualify the Gaillard reference as prior art under 35 U.S.C. §102(e).

Application 10/571,291 and WO03/091249 (issuing in the US as Patent 7,314,878) were, at the time the invention of Application 10/571,291 was made, owned by Applied Research Systems ARS Holding N.V. (later renamed Laboratoires Serono SA).

Reconsideration and withdrawal of the rejection are therefore respectfully requested.

In view of the above, the claims define patentable subject matter warranting their allowance. Favorable consideration and early allowance are earnestly urged.

Respectfully submitted,

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